

Application No. 10/001,298
Amendment "A" dated January 23, 2006
Reply to Office Action mailed December 1, 2005

REMARKS

Applicant expresses appreciation for the recent interview granted to applicant's representative on Feb. 28, 2006. Proposed amendments to independent claims 1 and 25 were presented and discussed in relation to the prior art of record, and the claims have accordingly been amended consistent with those proposals. Thus, by this paper claim 27 has been cancelled without prejudice, and claims 1 – 26 are presented for reconsideration. Claim 1, directed to a method, and corresponding computer program product claim 25 are the independent claims pending for reconsideration, which is respectfully requested in view of the matters discussed at the interview and the further remarks herein.

In the Office Action, claim 27 was objected to under Rule 75(c) for failing to further limit a previous claim. Claim 27 has been cancelled.

Independent claims 1 and 25 were rejected in the Office Action under 35 U. S. C. § 102(e) as anticipated by U. S. Patent Publication 2002/0129368 (Schlack et al.). The dependent claims were rejected as anticipated by Schlack et al. or under 35 U. S. C. § 103(a) as obvious over Schlack et al. taken in combination with either U. S. Patent Publication 2005/0216936 (Knudson et al.), 2002/0003184 (Ching et al.), 2005/1251824 (Thomas et al.), or U. S. Pat. No. 6,347,400 (Ohkura et al.).¹

As presented herein for reconsideration, applicant's independent claims define a method and corresponding computer program product for implementing the method at a video receiver that is coupled to a display device, and wherein the video receiver is configured to locally receive a stream that includes a plurality of video segments. The claimed method locally processes remotely issued instructions contained in the stream so that the video receiver can be used for targeting the plurality of video segments based on local information accessible to the video receiver and based on the remotely issued instructions. The method comprises locally monitoring state and user behavior characteristics associated with the video receiver and then locally storing the characteristics only at the video recorder. A plurality of video segments from the stream are then locally received at the video receiver, which then receives remotely issued

¹ Since these references qualify as "prior" art, if at all, under 35 U.S.C. 102(a)/(e), applicant reserves the right to challenge the status of any of these references as qualifying "prior" art. Accordingly, any statement or comment herein to either any of these references is made merely for purposes of argument, and assumes *arguendo* that such references are proper qualifying prior art.

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executable instructions from the stream which are configured to cause the video receiver to select a particular video segment from among the plurality of video segments based on the locally stored characteristics. Lastly, the method comprises locally processing the remotely issued executable instructions using the locally stored characteristics to cause the video receiver to select the particular video segment, and causing the selected particular video segment to be displayed on the display device.

As noted at the interview, Schlack et al. (published on Sep. 12, 2002, after applicant's filing date Dec. 1, 2005) has an application filing date of Oct. 31, 2001. Thus, Schlack et al. only qualifies as "prior" art to the extent that the earlier-filed provisional applications (60/260,946 filed Jan. 11, 2001, and 60/263,095 filed Jan. 19, 2001) contain disclosure that is the same as that set forth in the published application. The Examiners acknowledged and agreed with this at the interview. As further pointed out, the '95 provisional is a technical specification of Expanse Networks entitled "Session Based Profiling" which simply "describes the mechanisms and algorithms for differentiating viewers in a household by monitoring channel change data." Overview, page 5. The '946 provisional also is a technical specification of Expanse Networks and is entitled "Profiling with a Set-Top Box." The '946 provisional clearly discloses that subscriber profiling is "based on head-end processing." In particular, Figure 1, which illustrates the profiling architecture for the set-top box, clearly shows that the profile information developed at the set-top box is uploaded to the head end and maintained in a "profile database." Figure 1, page 6.

As will be appreciated and as noted at the interview, Schlack's relevant disclosure is thus contrary to applicant's claimed method,² which maintains the user behavior characteristics that are monitored only at the video recorder (i.e., they are only stored locally), and which then processes the locally stored characteristics using remotely issued executable instructions configured to cause the video receiver to select a particular video segment based on the locally stored characteristics. Thus, one of the important advantages realized by applicant's claimed method is that video targeting of advertising "may be accomplished without the user necessarily

² As will be apparent from the relevant disclosure upon which Schlack et al.'s qualifying date as "prior" art is based, the assertions contained in the Office Action as to what Schlack et al. teaches are not necessarily supported by the qualifying disclosure of the reference, and hence there is arguably no *prima facie* case. The claims have thus not been amended herein for reasons necessarily related to overcoming the asserted rejections, but rather, in an attempt simply set forth the invention in a more clear and understandable fashion.

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disclosing any of the local state and user behavior characteristics outside of the video receiver, thereby preserving the privacy of the user."

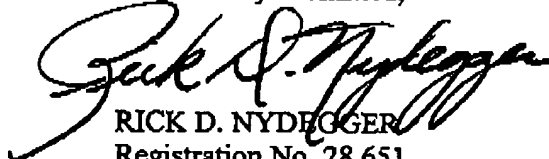
For at least this reason, Schlack et al. does not anticipate or make obvious applicant's claimed invention, either singly or in combination with any other prior art of record, and as noted in the Interview Summary, "Applicant's proposed amendments . . . appear to overcome the art rejection of record."

Applicant therefore respectfully requests favorable reconsideration and allowance of the pending claims.

In the event the Examiner finds any remaining impediment to allowance that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 13th day of March, 2006.

Respectfully submitted,



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